

RON BENDER (SBN 143364)
KRIKOR J. MESHEFEJIAN (SBN 255030)
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, California 90067
Telephone: (310) 229-1234
Facsimile: (310) 229-1244
Email: rb@lnbyb.com; kjm@lnbyb.com

Counsel for Chapter 11 Debtor and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

1 Citizens Development Corp., the debtor and debtor in possession in the above-entitled
2 Chapter 11 bankruptcy case, hereby moves (the “Motion”) for the entry of an order extending the
3 exclusivity period for the Debtor to file a plan of reorganization from March 24, 2011 to March
4 31, 2011. The Debtor seeks the foregoing extension without prejudice to its right to seek further
5 extensions of its exclusivity period to obtain acceptance of its plan of reorganization which period
6 is currently set to expire on May 23, 2011.

7 On January 27, 2011, the Court issued its ruling on the Debtor’s substantive consolidation
8 motion and Symphony Asset Pool X, LLC’s relief from stay motion. The Court authorized and
9 directed the substantive consolidation of the Debtor’s estate with that of LSM Country Club, LLC
10 and LSM Hotel, LLC, and the Court required the Debtor to file a plan of reorganization with
11 evidence of funding on or before March 31, 2011. The Court has scheduled a hearing on the
12 Debtor’s disclosure statement for May 25, 2011. The Debtor will file its plan on or before March
13 31, 2011. The Debtor is requesting a seven day extension of its exclusivity period to file a plan of
14 reorganization.

15 The Debtor is attempting to formulate its plan of reorganization and obtain the requisite
16 funds to implement a plan. The Debtor is currently discussing financing opportunities with
17 various cash sources and is determining whether there is a need to hire an investment banker to
18 assist the Debtor in its reorganization efforts. The Debtor is also continuing to operate its
19 consolidated business, has complied with administrative requirements and has met its obligations
20 as a debtor-in-possession. The Debtor requires a seven day extension of its exclusivity period to
21 file a plan of reorganization, through and including March 31, 2011, which is the date the Debtor
22 will unquestionably file its plan of reorganization. If the exclusivity period is not extended, the
23 potential need to defend against competing plans of reorganization will detract from the Debtor’s
24 ability to devote its resources to operating its business, negotiating with its lenders, obtaining cash
25 commitments, and presenting its plan of reorganization. The Debtor is requesting an extension in
26 good faith and is requesting a very short extension period which the Debtor does not believe will
27 prejudice any party in interest.

28

1 Therefore, based on the foregoing, and for other reasons set forth in the Memorandum,
2 the Debtor submits that “cause” exists for granting the Motion and extending the exclusivity
3 period for the Debtor to file a plan of reorganization and obtain acceptance thereof.

4 Dated: February 15, 2011

5 CITIZENS DEVELOPMENT CORP.

6 By: /s/ Krikor J. Meshefelian
7 RON BENDER
8 KRIKOR J. MESHEFEJIAN
9 LEVENE, NEALE, BENDER, YOO
10 & BRILL L.L.P.
11 Counsel for Debtor and Debtor in
12 Possession

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF FACTS**

4 1. On August 26, 2010 (the “Petition Date”), Citizens Development Corp. a
 5 California corporation, the debtor and debtor in possession herein (the “Debtor”), filed a
 6 voluntary petition under Chapter 11 of 11 U.S.C. § 101 et seq. (as amended, the “Bankruptcy
 7 Code”). The Debtor is managing its financial affairs and operating its bankruptcy estate as a
 8 debtor in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

9 2. The Debtor is the owner (either directly or through its affiliates), and operator, of
 10 Lake San Marcos Country Club & Resort (the “Resort”). The Resort is located on the shores of
 11 the 80-acre Lake San Marcos, in San Diego County, approximately 30 miles north of San Diego.
 12 The Resort is comprised of 252 acres of land that includes a 139-room hotel (the “Hotel
 13 Property”, 18,300 square feet of meeting and banquet space, a private 18-hole championship golf
 14 course with clubhouse and pro-shop (the “Country Club Property”), a public 18-hole executive
 15 golf course, three restaurants, a fitness center, four tennis courts, two outdoor swimming pools
 16 and the 80-acre Lake San Marcos.

17 3. On January 27, 2011, the Court issued its ruling on the Debtor’s substantive
 18 consolidation motion and Symphony Asset Pool X’s relief from stay motion. The Court
 19 authorized and directed the substantive consolidation of the Debtor’s estate with that of LSM
 20 Country Club, LLC and LSM Hotel, LLC, and the Court required the Debtor to file a plan of
 21 reorganization with evidence of funding on or before March 31, 2011. The Court has scheduled a
 22 hearing on the Debtor’s disclosure statement for May 25, 2011.

23 4. The Debtor’s exclusivity period to file a plan expires on March 24, 2011. The
 24 Debtor will file its plan on or before March 31, 2011. The Debtor is requesting a seven day
 25 extension of its exclusivity period to file a plan of reorganization so that during the very narrow
 26 time between the current expiration date of plan filing exclusivity and the date the Debtor is
 27 required to file a plan, another plan is not proposed which would detract the Debtor from pursuing

1 | its own reorganization efforts.

2 5. The Debtor is attempting to formulate its plan of reorganization and obtain the
3 requisite funds to implement a plan. The Debtor is currently discussing financing opportunities
4 with various cash sources and is evaluating the need to hire an investment banker to assist the
5 Debtor in its reorganization efforts. The Debtor is also continuing to operate its consolidated
6 business, has complied with administrative requirements and has met its obligations as a debtor-
7 in-possession.

8 6. The Debtor requires a seven day extension of its exclusivity period to file a plan of
9 reorganization, through and including March 31, 2011, which is the date the Debtor will
0 unquestionably file its plan of reorganization. If the exclusivity period is not extended, the
1 potential need to defend against competing plans of reorganization will detract from the Debtor's
2 ability to devote its resources to operating its business, negotiating with its lenders, obtaining cash
3 commitments, and presenting its plan of reorganization. The Debtor is requesting an extension in
4 good faith and is requesting a very short extension period which the Debtor does not believe will
5 prejudice any party in interest.

II.

DISCUSSION

A. The Court Has Authority To Extend the Debtor's Exclusivity Periods for the Filing of a Plan and Obtaining Acceptance Thereof.

Pursuant to Sections 1121(b) and (c) of the Bankruptcy Code, a Chapter 11 debtor has the exclusive right to file a plan of reorganization for a period of 120 days following the filing of the petition and an additional 60 days thereafter to obtain acceptances to any plan so filed. 11 U.S.C. §§ 1121(b) & (c). Section 1121(d) of the Bankruptcy Code allows the Court to extend or reduce these time periods “for cause.” Section 1121(d) of the Bankruptcy Code provides, in pertinent part, as follows:

(d)(1) Subject to paragraph (2), on request of a party in interest made within the respective periods specified in subsections (b)

1 and (c) of this section and after notice and a hearing, the court
 2 may for cause reduce or increase the 120-day period or the 180-
 day period referred to in this section.

3 (2)(A) The 120-day period specified in paragraph (1) may not
 4 be extended beyond a date that is 18 months after the date of the
 order for relief under this chapter.

5 (B) The 180-day period specified in paragraph (1) may not
 6 be extended beyond a date that is 20 months after the date of the
 order for relief under this chapter.

7
 8 11 U.S.C. § 1121(d)(1) & (2).

9 The decision of whether to grant a request to extend or shorten the exclusivity periods lies
 10 within the sound discretion of the bankruptcy judge. In re Gibson & Cushman Dredging Corp.,
 11 101 B.R. 405, 409 (E.D.N.Y. 1989). The “cause” standard referred to in Section 1121 has been
 12 referred to as a general standard that allows the bankruptcy court “maximum flexibility to suit
 13 various types of reorganization proceedings.” In re Public Service Company of New Hampshire,
 14 88 B.R. 521, 534 (Bankr. D.N.H. 1988).

15 The Code does not define “cause” or establish formal criteria for an extension of the
 16 exclusivity periods, but legislative history indicates that the term “cause” is to be viewed flexibly
 17 “in order to allow the debtor to reach an agreement [with its creditors].” H.R. Rep. No. 95-595,
 18 95th Cong., 1st Sess. 220, 231 (1977), U.S. Code Cong. & Admin. News 1978, pp. 5963, 6190
 19 [hereinafter “House Report”]; In Re McLean Industries, Inc., 87 B.R. 830, 833 (Bankr. S.D.N.Y.
 20 1987); In re Express One International, Inc., 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996).
 21 Consistent with a balanced, integrated approach to reorganizations under Chapter 11, Congress
 22 contemplated that Bankruptcy Courts would apply the exclusivity provisions flexibly so as to
 23 promote the orderly, consensual and successful reorganization of a debtor's affairs. See House
 24 Report, supra, at 232.

25 Among the factors to be considered in finding “cause” to extend the exclusivity periods
 26 are: (i) the size and complexity of the case (Grand Traverse Devel. Co. Ltd. Partnership, 147 B.R.
 27 418, 420 (Bankr. W.D. Mich. 1992)); (ii) whether a debtor is attempting in good faith to
 28

1 formulate a viable plan and the degree of progress that has been achieved by the debtor in the
 2 Chapter 11 process (*In re Jasick*, 727 F.2d 1379 (5th Cir. 1984), reh'g denied, 731 F.2d 888 (5th
 3 Cir.)); and (iii) a debtor's satisfaction of its post-petition obligations as they come due (*In re*
 4 McLean Indus., Inc., 87 B.R. 830, 834 (Bankr. S.D.N.Y. 1987)). While the foregoing are some
 5 of the most common factors, a court has discretion to consider others. See, e.g., Express One,
 6 194 B.R. at 100. For example, the diligence of management and proper administration of the
 7 case is a factor that weighs in favor of an extension of the plan exclusivity periods. See, In re
 8 United Press International, 60 B.R. 265 (Bankr. D.D.C. 1986); *In re Trainer's, Inc.*, 17 B.R. 246,
 9 247 (Bankr. E.D. Pa. 1982).

10 **B. Good Cause Exists To Grant the Debtor's Request To Further Extend the**
Exclusivity Period For the Debtor To File A Plan of Reorganization By Seven Days.

11 *1. The Debtor will file its plan of reorganization on or before March 31, 2011.*

12 The Court has set a deadline of March 31, 2011 for the Debtor to file its plan of
 13 reorganization with evidence of funding adequate to implement such a plan of reorganization.
 14 The Court has also tentatively set a hearing on the Debtor's disclosure statement for May 25,
 15 2011. If the Debtor does not file a plan as ordered by the Court, Symphony will be able to
 16 foreclose upon the Hotel Property.

17 The Debtor is attempting to formulate its plan of reorganization and obtain the requisite
 18 funds to implement its plan. The Debtor is currently discussing financing opportunities with
 19 various cash sources and determining whether hiring an investment banker is feasible and
 20 necessary. The Debtor is also continuing to operate its consolidated business, has complied with
 21 administrative requirements and has met its obligations as a debtor-in-possession. The Debtor
 22 will file its plan prior to or on March 31, 2011 in compliance with the Court's order and merely
 23 requests an extension of its exclusivity period through and including March 31, 2011.

24 *2. The Debtor is current with its post-petition obligations.*

25 As discussed herein above, the Debtor is authorized to utilize cash collateral pursuant to
 26 the terms of the Court's order authorizing the Debtor to use cash collateral, and the Debtor has
 27

1 concurrently filed a motion for authority to further use cash collateral. The Debtor is also
 2 negotiating cash collateral stipulations with various of its lenders. To date, the Debtor has
 3 utilized its cash collateral to remain current with its post-petition obligations to creditors.
 4 Therefore, this factor weighs in favor of extending the Debtor's plan exclusivity periods.

5 3. *The Debtor has been diligent and has properly administered its bankruptcy case.*

6 As discussed above, the Debtor has properly administered its Chapter 11 case in that the
 7 Debtor has complied with all of the material requirements of the Bankruptcy Code, the Federal
 8 Rules of Bankruptcy Procedure, and the Office of the United States Trustee. The Debtor is also
 9 operating under a cash collateral order. Under these circumstances, a short extension of the
 10 exclusivity periods for filing a plan of reorganization can be granted with the confidence that the
 11 Debtor is in full compliance with the requirements that are conditions to the Debtor maintaining
 12 its exclusive right to file a plan of reorganization and gain acceptance thereof. As a result, this
 13 factor weighs in favor of extending the Debtor's plan exclusivity periods.

14 4. *The Debtor requests an extension for the purpose of formulating an appropriate
 exit strategy in compliance with the Court's order.*

15 The Debtor's request herein is being made in good faith and not for the purpose of
 16 pressuring creditors into acceding to certain plan terms. The requested extension is a seven day
 17 extension meant only to ensure that the Debtor may focus on the preparation of its plan and
 18 receipt of funding to implement a plan during the crucial days before the Debtor is required
 19 to submit its plan to the Court. The Debtor's goal is to maximize distributions to all creditors
 20 pursuant to a plan but the Debtor does not believe that this goal will be attained if the Debtor is
 21 not afforded the entire period of time between now and the date the Debtor is required to file a
 22 plan with the Court. The Debtor is not aware of any creditor whose claim or interest would be
 23 adversely affected or impaired by the granting of the limited relief requested herein. Therefore,
 24 this factor weighs in favor of extending the Debtor's plan exclusivity periods.

25 Thus, based on all of the foregoing, the Debtor submits that good cause exists for granting
 26 the relief requested in the Motion.

III.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter an order:

(1) extending the exclusivity period for the Debtor to file a plan of reorganization for seven (7) days, to and including March 31, 2011; and

(2) granting such other and further relief as the Court deems just and proper under the circumstances.

Dated: February 15, 2011

CITIZENS DEVELOPMENT CORP.

By: /s/ Krikor J. Meshefelian
RON BENDER
KRIKOR J. MESHEFELIAN
LEVENE, NEALE, BENDER, YOO
& BRILL L.L.P.
Proposed Counsel for Debtor and
Debtor in Possession

1 **DECLARATION OF MATTHEW C. DINOFIA**

2 I, Matthew C. DiNofia, hereby declare as follows:

3 1. I am over 18 years of age. I have personal knowledge of the facts set forth herein,
4 and, if called as a witness, could and would testify competently with respect thereto.

5 2. I am the President, Chief Executive Officer, and owner of Citizens Development
6 Corp., the Chapter 11 debtor and debtor in possession in the above-referenced bankruptcy case (the
7 “Debtor”). I handle all creditor and lender negotiations for the Debtor. I oversee the management
8 of the Debtor. I handle all potential investor opportunities for the Debtor. I am the person that is
9 most familiar with the Debtor’s financial situation and debt structure. I am the only officer of the
10 Debtor that has guaranteed the Debtor’s debts.

11 3. I have access to the books and records of the Debtor and entities related to the
12 Debtor. I am familiar with the history, organization, operations and financial condition of the
13 Debtor. The records and documents referred to in this Declaration constitute writings taken, made,
14 or maintained in the regular or ordinary course of the Debtor’s business at or near the time of act,
15 condition or event to which they relate by persons employed by the Debtor who had a business duty
16 to the Debtor and its affiliates to accurately and completely take, make, and maintain such records
17 and documents. I am a custodian of records for the Debtor, and have direct knowledge of how the
18 Debtor maintains its books and records.

19 4. On August 26, 2010 (the “Petition Date”), Citizens Development Corp. a
20 California corporation, the debtor and debtor in possession herein (the “Debtor”), filed a
21 voluntary petition under Chapter 11 of 11 U.S.C. § 101 *et seq.* (as amended, the “Bankruptcy
22 Code”). The Debtor is managing its financial affairs and operating its bankruptcy estate as a
23 debtor in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

24 5. The Debtor is the owner (either directly or through its affiliates), and operator, of
25 Lake San Marcos Country Club & Resort (the “Resort”). The Resort is located on the shores of
26 the 80-acre Lake San Marcos, in San Diego County, approximately 30 miles north of San Diego.
27 The Resort is comprised of 252 acres of land that includes a 139-room hotel (the “Hotel

1 Property”, 18,300 square feet of meeting and banquet space, a private 18-hole championship golf
 2 course with clubhouse and pro-shop (the “Country Club Property”), a public 18-hole executive
 3 golf course, three restaurants, a fitness center, four tennis courts, two outdoor swimming pools
 4 and the 80-acre Lake San Marcos.

5 6. On January 27, 2011, the Court issued its ruling on the Debtor’s substantive
 6 consolidation motion and Symphony Asset Pool X’s relief from stay motion. The Court
 7 authorized and directed the substantive consolidation of the Debtor’s estate with that of LSM
 8 Country Club, LLC and LSM Hotel, LLC, and the Court required the Debtor to file a plan of
 9 reorganization with evidence of funding on or before March 31, 2011. The Court has scheduled a
 10 hearing on the Debtor’s disclosure statement for May 25, 2011.

11 7. The Debtor’s exclusivity period to file a plan expires on March 24, 2011. The
 12 Debtor will file its plan on or before March 31, 2011. The Debtor is requesting a seven day
 13 extension of its exclusivity period to file a plan of reorganization so that during the very narrow
 14 time between the current expiration date of plan filing exclusivity and the date the Debtor is
 15 required to file a plan, another plan is not proposed which would detract the Debtor from pursuing
 16 its own reorganization efforts.

17 8. The Debtor is attempting to formulate its plan of reorganization and obtain the
 18 requisite funds to implement a plan. I, on behalf of the Debtor, am currently discussing financing
 19 opportunities with various cash sources and I have also contacted and spoken to on numerous
 20 occasions an investment banker to determine whether hiring an investment banker will be
 21 beneficial to the Debtor’s reorganization efforts. The Debtor is also continuing to operate its
 22 consolidated business, has complied with administrative requirements and has met its obligations
 23 as a debtor-in-possession.

24 9. The Debtor requires a seven day extension of its exclusivity period to file a plan of
 25 reorganization, through and including March 31, 2011, which is the date the Debtor will
 26 unquestionably file its plan of reorganization. If the exclusivity period is not extended, the
 27 potential need to defend against competing plans of reorganization will detract from the Debtor’s
 28

1 ability to devote its resources to operating its business, negotiating with its lenders, obtaining cash
2 commitments, and presenting its plan of reorganization. The Debtor is requesting an extension in
3 good faith and is requesting a very short extension period which the Debtor does not believe will
4 prejudice any party in interest.

5 I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th
6 day of February, 2011, in San Diego, California.

7 
8 Matthew C. DiNofia

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In re:

CITIZENS DEVELOPMENT CORP.,

Debtor(s).

CHAPTER 11

CASE NO. 10-15142-LT11

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Blvd., Suite 1700, Los Angeles, CA 90067.

A true and correct copy of the foregoing document described as: **DEBTOR'S MOTION FOR ORDER EXTENDING EXCLUSIVITY PERIOD BY SEVEN DAYS FOR FILING PLAN OF REORGANIZATION; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF MATTHEW C. DINOFIA** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On **February 15, 2011**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- Ron Bender rb@lnbyb.com
- Judith A. Descalso descalso@pacbell.net
- Philip J Giacinti pjg@procopio.com, caw@procopio.com;laj@procopio.com
- Haeji Hong Haeji.Hong@usdoj.gov, USTP.Region15@usdoj.gov;shannon.m.vencill@usdoj.gov;tiffany.l.carroll@usdoj.gov
- Raffi Khatchadourian raffi@hemar-rousso.com
- Dean T. Kirby dkirby@kirbymac.com, jirigg@kirbymac.com;gsparks@kirbymac.com;rrobinson@kirbymac.com;jcastranova@kirbymac.com;jlewin@kirbymac.com
- Christina Melhouse cm@ldplaw.com
- Krikor Meshefesian kjm@lnbyb.com
- Andrew S. Pauly apauly@gpfm.com
- Richard J. Pekin rpekin@foxjohns.com
- Wayne R. Terry wterry@hemar-rousso.com, mgranzow@hemar-rousso.com
- Kelly Ann Mai Khanh Tran ktran@mklaw.com, ssandbeck@mklaw.com
- United States Trustee ustp.region15@usdoj.gov
- Dennis J. Wickham wickham@scmv.com, havard@scmv.com
- Alan Steven Wolf wdk@wolffirm.com;faxes@wolffirm.com

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL: On **February 15, 2011**, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service and/or by attorney service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

By Overnight Mail

Hon. Laura S. Taylor
U.S. Bankruptcy Court
Jacob Weinberger U.S. Courthouse
325 West F Street, Room 129
San Diego, CA 92101-6998

[X] Service list attached

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

None.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

February 15, 2011	Stephanie Reichert	/s/ Stephanie Reichert
Date	Type Name	Signature

II. SERVED BY U.S. MAIL:

Acushnet>Titleest
P.O. Box 88112
Chicago, IL 60695-1112

Bank Of America
P.O. Box 15731
Wilmington, DE 19886-5731

Liz Tuquero
Bank Of The West
180 Montgomery Street, 25th Floor
San Francisco, CA 94279-8006

CA State Board Of Equalization
P.O. Box 942879
Sacramento, CA 94279-8006

California Credit Union
701 N. Brand Blvd, 3rd Floor
Glendale, CA 91203

Dept Of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

El Toreador Property Group/J. Serhan
c/o Wm. J. Caldarelli, Esq.
550 West. C Street, Ste 700
San Diego, CA 92101

Foley & Lardner LLP
555 South Flower Street
Suite 3500
Los Angeles, CA 90071-2411

German American Capital Corporation
60 Wall Street, 10th Floor
New York, NY 10005

Haineslaw
Laurence F. Haines, Esq.
139 East Third Ave., Ste. #108
Escondido, CA 92025

Jani-King Of California, Inc.-SDO
File 749318
Los Angeles, CA 90074-9318

Kitabayashi Design Studio
1227 J Street
San Diego, CA 92101

Ron Frazar
P.O. Box 4970
Whitefish, MT 59937

San Diego County Treasurer-
Tax Collector
P. O. Box 129009
San Diego, CA 92112

Steve I. Kastner, Esq.
101 West Broadway, #1700
San Diego, CA 92101

Tig Global LLC
14851 Collections Center Dr
Chicago, IL 60693

Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069-1453

Vanorsdale Insurance Services
4909 Murphy Canyon Rd Ste 510
San Diego, CA 92123

Worldwide Payment Systems S.A.
Torneo, 72
41002 Sevilla. SPAIN

Mainfest Funding Services
PO Box 790448
St. Louis, MO 63179

Eric Dean
The Wolf Firm
2955 Main Street, 2nd Floor
Irvine, CA 92614

William J. Caldarelli
Mazzorella Caldarelli LLP
550 West C Street
Suite 700
San Diego, CA 92101

Mulvaney, Kahan & Barry LLP
Everett G. Barry, Jr., Esq.
Kelly Ann Tran, Esq.
401 West A Street, 17th Floor
San Diego, CA 92101-1010

Gordon L. Gerson/Jana M. Beck
Gerson Law Firm APC
9255 Towne Centre Drive, Suite 300
San Diego, CA 92121

Chris Dinofia
1710 S. El Camino Real, #E204
Encinitas, CA 92024

Citicapital Commercial Corp.
3950 Regent Blvd.
Irving TX 75063-0000

Citicapital Commercial Leasing Corp.
3950 Regent Blvd.
Irving TX 75063-0000

D&A Semi-Annual Mortgage Fund Iii
10251 Vista Sorrento Parkway
Suite 200
San Diego CA 92121-0000

Javier Serhan
530 B Street
Suite 1530
San Diego CA 91311-0000

Pacific West Realty Group
2550 5th Avenue, Suite 529
San Diego CA 92103-0000

Telesis / Business Partners
Commercial Loan Dept
9301 Winnetka Ave
Chatsworth CA 92101-0000

US Bancorp
P.O. Box 580337
Minneapolis MN 55458-0000

Office of The United States Trustee
402 W. Broadway, Suite 600
San Diego, CA 92101-8511